

PHARMACY EXAMINING BOARD
REGULAR MEETING
AUGUST 14, 2001

MEMBERS PRESENT: Cynthia Benning, RPH; Michael Bettiga, RPH; John Bohlman, RPH; Georgina Forbes; Sue Sutter, RPH

MEMBERS EXCUSED: Dan Luce, RPH, Charlotte Rasmussen

LEGAL COUNSEL: William Black

STAFF PRESENT: Patrick D. Braatz (excused at 4:15), Deanna Zychowski (excused at 9:30), Karen Rude-Evans (arrived at 9:30, excused at 5:05)

GUESTS: Larry Edwards, DOC; Nicole Comer, Jody Vander Koy, Ryan Flugge, Tiffany Krause, Alyssa Hoover, Kevin Mumm, Jessica Germain, Heather Chambers, Ken Walker, Todd Meyer and Todd Tomek, ShopKo; Jessica Kickbusch and Nicole Weimut, Physicians Plus; Paul Krueger, Hilbert and Tenuta; Gina Besteman, Women's International Pharmacy; Brian McIlhone, Walgreens; Susan Kleppin, PSW; Jessica Mihalles, Megan Kruger, Sarah Fictum, Nathan Kanous and Curtis Johnson, UWSOP

CALL TO ORDER

Chair John Bohlman called the meeting to order at 9:12 a.m.

APPROVAL OF AGENDA

Amendments: -Proposed Stipulation – Mitchell J. Bonjean, R.Ph.
-Letter from Christopher Decker, PSW
-Review of *Regulatory Digest* draft 3
-PIB rules
-Memo to Managing Pharmacists
-Variance request – Scenic Bluffs Community Health Center
-Legislative Status Report on Bill Drafting Requests

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 9-10, 2001

Corrections: -On page 1, under DISCUSSION REGARDING POSSIBLE LEGISLATIVE..., change the paragraph to read, "...with Tom Engels, PSW. The proposed budget bill would eliminate funding effective July 1, 2001, and the PIB as of December 31, 2001."

- On page 3, under REVIEW OF RESPONSE..., add to the end of the paragraph, "The Pharmacy Examining Board will continue to have further discussion with the MEB in regard to this matter before an article can be drafted."
- On page 5, under REGULATORY DIGEST, delete "still".

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to approve the Minutes of July 9-10, 2001, as corrected. Motion carried unanimously.

SECRETARY OSCAR HERRERA

John Bohlman reported that a meeting was held with Secretary Herrera regarding the PIB yesterday. Secretary Herrera indicated that responsibilities will come to the Department and the Board if the PIB is eliminated when the budget is passed. The budget bill may be signed by the end of the month. If this occurs, the Board will discuss at its next meeting how to implement the program. The Department will do an analysis of what resources are available.

PRESENTATION OF PROPOSED STIPULATIONS

ARTHUR H HACKENDAHL, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Arthur H. Hackendahl, R.Ph. This matter will be deliberated on in closed session.

MITCHELL J BONJEAN, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Mitchell J. Bonjean, R.Ph. This matter will be deliberated on in closed session.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

These reports were informational.

UPDATE ON THE DRUG TESTING PROGRAM

LeeAnn Cooper updated the Board on the new drug testing program. The Board would like to see the proposed draft language regarding the frequency of drug testing to be used in future orders. The Board acknowledged Ms. Cooper's efforts in setting up this program.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to accept DOT collection protocol for drug screens. Motion carried unanimously.

DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to approve the distributor applications of **Air Products/Chemicals, NY; Andrx Laboratories, Inc., MS; First Horizon Pharmaceutical Corp., Madison; Fresenius Medica Care North America, NC; Medtec Medical, Inc, IL, and OSG Norwich Pharmaceuticals, Inc., NY.** Motion carried unanimously.

REQUEST FOR DISPENSING MACHINES IN TWO OFF-SITE LOCATIONS BY OCONOMOWOC MEMORIAL HOSPITAL –MARK ZWASKA, RPH

Mark Zwaska, R.Ph., Oconomowoc Memorial Hospital (OMH), appeared before the Board to discuss the potential need for OMH to obtain a distributor's license to engage in drug sales to two off-site psychiatric hospitals as well as supplying contract pharmacy consulting services to assist the psychiatric hospitals in physician dispensing. The use of ADS dispensing machines for purposes of remote dispensing by OMH at the two off-site psychiatric hospitals was deemed by the Board to be improper under Wisconsin pharmacy law.

DISCUSSION AND ADOPTION OF MODIFICATION TO CLEARINGHOUSE RULE 00-157 RELATING TO CONSULTATION PROGRAMS AND LICENSURE REQUIREMENTS

The discussion of Clearinghouse Rule 00-157 was postponed as PSW was not able to attend the meeting. The Board extended an invitation to PSW to meet with the Board on October 9, 2001, to discuss Clearinghouse Rule 00-157 and other issues before the Board in which PSW has an interest.

DISCUSSION OF MODIFICATION OF PHAR 8.05(4) (7/60 DAY RULE) AND APPROVAL TO SUBMIT TO THE CLEARINGHOUSE

The Board directed legal counsel to make modifications to Phar 8.06(4). The modifications will be brought back to the next meeting for discussion.

REVIEW AND DISCUSSION OF PHAR 2.06 REDEFINING THE ACTIVE PRACTICE OF PHARMACY AND APPROVAL TO SUBMIT TO THE CLEARINGHOUSE

The discussion of Phar 2.06 was postponed until the Board meets with PSW on October 9, 2001.

REVIEW OF SCOPE STATEMENT RELATING TO TEMPORARY CHANGE OF LOCATION OF A PHARMACY IN RESPONSE TO AN EMERGENCY OR NATURAL OR MANMADE DISASTER

This item was discussed last month and was on the agenda in error.

VARIANCE REQUESTS

CHARTWELL MIDWEST WISCONSIN, MIDDLETON

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant the variance request for delivery to a vacation home or another location where the patient is temporarily residing to Chartwell Midwest. The Board further defined “residence” in a hotel or other similar facility as the patient’s room and delivery must be made to the patient in their room. The three other variance requests are denied and the Board requests further information from Chartwell Midwest on these requests. Motion carried unanimously.

AURORA PHARMACY, SHEBOYGAN

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to deny the variance request to Aurora Pharmacy. Motion carried unanimously.

SCENIC BLUFFS COMMUNITY HEALTH CENTER

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to grant the variance request to the square footage to Scenic Bluffs Community Health Center. Motion carried unanimously.

PRACTICE QUESTIONS

The Board reviewed the practice questions and directed legal counsel to respond.

AUDIT OF THE NORTH AMERICAN PHARMACIST LICENSURE EXAMINATION BY CALIFORNIA

This item was informational.

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to thank Barb Showers for attending the meeting. Motion carried unanimously.

DISCUSSION OF ENDORSEMENT OF FLORIDA LICENSED PHARMACISTS

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to accept applicants from any state that offered NAPLEX for licensure. Motion carried unanimously.

CORRESPONDENCE FROM MEDICAL EXAMINING BOARD RELATING TO PRESCRIPTION ORDER SIGNATURES

Sue Sutter has written an article relating to prescription order signatures. This article will be in the *Regulatory Digest* for both the Medical and Pharmacy Examining Boards.

CORRESPONDENCE FROM NACDS RELATING TO ALLOWING PHARMACIST'S TEMPORARY ABSENCE FROM THE PHARMACY FOR BREAKS

This item was informational. The Board will further discuss the issue of keeping a pharmacy open during pharmacists' breaks at the next Board meeting.

REQUEST TO TRANSFER PRESCRIPTIONS – WALGREENS

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to approve the request from Walgreens. Motion carried unanimously.

DISCUSSION OF FOREIGN GRADUATE CANDIDATE

The licensure of foreign graduates may take as long as six months due to the fact that required documentation must be received from the other country. Foreign graduates are encouraged to request these documents as early as possible to help minimize any possible delays.

REPORT OF CONTROLLED SUBSTANCE BOARD

Cynthia Benning reported the CSB met on August 1, 2001. A public hearing was held on the proposed rules relating to the scheduling of dihydroetorphine. The CSB also discussed the use of anesthesia drugs in the field, and that SUA's are no longer needed for law enforcement dog handlers.

DISCUSSION OF DRAFT SELF-INSPECTION FORM

The Board reviewed the latest draft of the self-inspection form and suggested several changes. When these changes are made the form should be ready for printing and distribution.

REVIEW OF MEMO TO MANAGING PHARMACISTS

The Board reviewed and approved a memo to managing pharmacists that is sent when there is a change of the managing pharmacist at a pharmacy.

REGULATORY DIGEST

The Board reviewed draft 3 of the *Regulatory Digest* and made some changes. When these changes are made the *Regulatory Digest* will be ready for publishing.

NABP AACP DISTRICT IV COMMITTEE UPDATE

Patrick Braatz reported the Committee met earlier in the day and was introduced via telephone to the new District IV Secretary Doug Miller. A tentative draft of the agenda has been developed. Meeting accommodations and the reception have been finalized. Speakers are lined up but still looking for participants for the reactor panel. The next meeting is scheduled for September.

RECESS TO CLOSED SESSION

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g), Wis. Stats., for the purpose deliberation of proposed stipulations, considering requests for stays of suspensions and modifications in board orders, reviewing applications, reviewing case status reports, discussion of pharmacy inspections, discussion of examination issues and consulting with legal counsel. Roll call vote: Cynthia Benning – yes, Michael Bettiga – yes, John Bohlman – yes, Georgina Forbes – yes, Sue Sutter – yes. Motion carried unanimously.

Open session recessed at 1:14 p.m.

RECONVENE IN OPEN SESSION

MOTION: Georgina Forbes moved, seconded by Cynthia Benning, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 5:42 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

PROPOSED STIPULATIONS

ARTHUR H HACKENDAHL, RPH

MOTION: Sue Sutter moved, seconded by Georgina Forbes, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Arthur H. Hackendahl, R.Ph. Case advisor was Cynthia Benning. Michael Bettiga abstained. Motion carried.

MITCHELL J BONJEAN, RPH

MOTION: Georgina Forbes moved, seconded by Cynthia Benning, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Mitchell J. Bonjean, R.Ph. Case advisors were Sue Sutter and Michael Bettiga. Motion carried unanimously.

REQUESTS FOR STAYS OF SUSPENSIONS/CHANGES IN BOARD ORDERS

MARK ANDERSON, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to approve the request from Mark Anderson, R.Ph., to drop fentanyl and meperidine from his drug screens. Motion carried unanimously.

PHILIP DALLMAN, RPH

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to grant a three-month stay of suspension to Philip Dallman, R.Ph., and to inform his therapist, Rick Jass, to call to initiate the random drug screens. Motion carried unanimously.

DAVID KLEINGARTNER, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension and a reduction in therapy to twice per month to David Kleingartner, R.Ph. Motion carried unanimously.

MARILYN KUHRT, RPH

MOTION: Cynthia Benning moved, seconded by Georgina Forbes, to grant a three-month stay of suspension to Marilyn Kuhrt, R.Ph. Motion carried unanimously.

CHARLENE WILLIS, RPH

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to deny the request for a stay of suspension to Charlene Willis, R.Ph., for non-compliance with her Order. Motion carried unanimously.

CASE STATUS REPORT

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to close complaint **00 PHM 053** for no violation. Case advisor was Cynthia Benning. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to close complaint **01 PHM 017** for insufficient evidence. Case advisor was Cynthia Benning. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to close complaint **00 PHM 045** for prosecutorial discretion (P3). Case advisor was Michael Bettiga. Motion carried unanimously.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to close complaint **00 PHM 055** for prosecutorial discretion (P3), with a note on the record that the correspondence memorandum mis-states the case advisor's recommendation. Case advisor was Sue Sutter. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to close complaint **00 PHM 073** against Brian McIlhone, R.Ph., and Walgreens 42-7284 for prosecutorial discretion (P2). Case advisor was John Bohlman. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to return complaint **00 PHM 073** regarding Chad Rindy, R.Ph., to DOE for further investigation. Case advisor was John Bohlman. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to close complaint **99 PHM 029** for insufficient evidence. Case advisor was Georgina Forbes. Sue Sutter abstained. Motion carried.

APPLICATION REVIEWS

PATRICIA BYINGTON, RPH

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to deny the application of Patricia Byington, R.Ph., under Sec. 450.05. Motion carried unanimously.

CORRESPONDENCE FROM ELIZABETH S SCHAR, RPH, AND KEITH W SCHAR, RPH

The Board cannot take action or a position on non-pending applications. They may wish to re-apply for licensure, at which time further consideration will be given to any application submitted.

EXAMINATION RESULTS

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to accept the examination results. Motion carried unanimously.

INFORMATIONAL ITEMS

The Board noted the informational items.

OTHER BOARD BUSINESS

ADJOURNMENT

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 6:01 p.m.

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